IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 13TH DAY OF JANUARY 2006

BEFORE

THE HON'BLE MR.JUSTICE D.V. SHYLENDRA KUMAR

WRIT PETITION No.32912/2004 (SC/ST)

Between:

1 MUNIAPPA
S/O LATE GURAPPA.
AGED ABOUT 80 YEARS

2 PULLAMMA
W/O MUNIAPPA.
AGED ABOUT 76 YEARS

3 GAYATHRI
W/O LATE VENUGOPALASWAMY.
AGED ABOUT 39 YEARS

P1 TO P3 ARE R/A TUBARAHALLI
VILLAGE, RAMAGOUNDANA
HALLI POST, BANGALORE - 66

4 T M RAGHU
S/O MUNIAPPA.
AGED ABOUT 39 YEARS
REP. BY GPA HOLDER
P.M.LOKESH. S/O C.M. MALLAIAH
33 YEARS. R/A NO.92. 13TH CROSS.
LAKSHMAIAH BLOCK.
GANGANAGAR NORTH
BANGALORE-24 ... PETITIONERS.

(By M/s. G. Jairaj & Associates & Vanitha, Advs.,)

And:

1 THE SPECIAL DEPUTY COMMISSIONER
BANGALORE DISTRICT
BANGALORE-9

2 THE ASSISTANT COMMISSIONER
BANGALORE NORTH SUB DIVISION
PODIUM BLOCK. V.V. TOWER
DR. AMBEDKAR ROAD
BANGALORE-1

3 THE TAHSILDAR
K.R. PURA HOBLI
BANGALORE EAST TALUK
BANGALORE

4 THE SPECIAL TAHSILDAR
K.R. PURA HOBLI
BANGALORE EAST TALUK
BANGALORE

5 THE REVENUE INSPECTOR
VARTHUR CIRCLE
K.R. PURA HOBLI
BANGALORE EAST TALUK
BANGALORE

6 THE VILLAGE ACCOUNTANT
RAMAGONDANA HALLI GRAMA
PANCHAYATH. K.R. PURA HOBLI
BANGALORE EAST TALUK
BANGALORE

7 SAMPANGAMMA
W/O M NAGARAJU. MAJOR

8 BHAGIRATHI
W/O C JYOTHAIAH. MAJOR

R7 & R8 ARE R/AT TUBARA
HALLI GRAMA. RAMAGOUNDANAHALLI
(POST) VARTHUR HOBLI
BANGALORE 560 066

9 SAROJAMMA
W/O H.K. RAMAIAH. MAJOR

10 PARVATHAMMA
W/O H.K. NARAYANAPA. MAJOR

11 SHANTHAMMA
W/O H.K. MUNIYAPPA. MAJOR

R9 TO R11 ARE R/A NO. 126.
HULIMAVU. BANNERGHATTA ROAD
BANGALORE-76

12 NARAYANAMMA
W/O VENKATASWAMY. MAJOR
R/AT MAKANAHALLI
HOSKOTE TALUK
BANGALORE RURAL DISTRICT ... RESPONDENTS

[By Sri. T K Vedamurthy, HCGP for R1 to R6;
Sri. K Subba Rao, Sr. Counsel for M/s. DRP Babu
& Associates, Adv., for R7 & R8;
Sri. T.P. Vivekananda, Adv., for R9 to R12]

This writ petition is filed under Articles 226 & 227 of the Constitution of India praying to quash the impugned order dt.27-2-2004 passed by R1 vide Anx.E and etc.,.

This Writ Petition coming on for Hearing, this day, the Court made the following:-

ORDER

Writ Petition by a person who was a grantee of agricultural land way back in the year 1961 and as a person belonging to scheduled caste community who had transferred such land in violation of the terms of the grant and which transaction was sought to be invalidated invoking the provisions of the Karnataka Scheduled Caste & Scheduled Tribe [PTCL] Act, 1978 [for short 'the Act'] and who though had succeeded not only before the Assistant Commissioner but also before the Deputy Commissioner in the appeal preferred by the purchaser and in respect of which orders, this court had dismissed the writ petition No. 17842/2004 in terms of the order dated 30-11-2005, but nevertheless has sought for getting over certain observations/directions issued by the

appellate authority-the Deputy Commissioner in the course of passing the order dated 27-2-2004 [copy at Annexure-E] whereunder the observations are to the effect that the revenue entries in respect of the subject land should also include the names of respondent Nos. 7 and 8 in this writ petition.

2. A writ petition of this nature normally is not one which is required to be examined by this court, particularly, at the instance of a party who has succeeded before the lower authorities and an order which is not adverse to the petitioner at all.

3. However, as the order passed by the appellate authority on the applications for impleadment filed by the present respondent Nos. 7 and 8 has resulted in the revenue authorities taking cue of this order for the purpose of effecting changes in the revenue records not only for including the names of these respondents in the revenue records as indicated in the mutation register extract [copy at Annexure-F] but also in issuing the endorsement dated 3-8-2004 [copy at Annexure-J] by the Special Tahsildar, Bangalore East Taluk, the petitioners have approached this court praying for quashing of both Annexures - F & J on the premise that these

entries/endorsement has come into existence solely based on the order of the Special Deputy Commissioner dated 27-2-2004 [copy at Annexure-E] where under the Special Deputy Commissioner had allowed the impleading applications of respondent Nos. 7 and 8.

4. The grievance of the petitioners is that the appellate authority should not have entertained such impleading applications in a pending appeal before him under section 5A of the Act by persons who claimed as legal heirs or as persons under the first petitioner-Muniappa the grantee.

5. It appears while the respondent Nos. 7 and 8 claim to be daughters of said Muniappa, there is some dispute about it amongst the parties, but what is more important is that it was not an issue which was required to be considered by the appellate authority particularly when he noticed that there is no scope for examination of any question of legal heirs as the very grantee is alive and is a party to the proceedings and having been brought on record as a legal heir of his son T.M. Venugopalaswamy who had initiated the proceedings before the Assistant Commissioner, any application in the status of a legal heir or legal representative of such a person who was alive

could not be maintained during the lifetime of the grantee himself. The apprehension of the petitioners is that the revenue entries could cause mischief to the detriment of the petitioners and could cause rift or tussle amongst the members of the family etc.,.

6. I have heard Ms. Vanitha, learned counsel for the petitioners, Sri. K Subba Rao, learned Senior Counsel for respondent Nos. 7 and 8 as also Sri. Vedamurthy, learned Government Pleader.

7. It is definitely not the function of the appellate authority under section 5A of the Act to embark upon an unnecessary enquiry and to add unnecessary parties to the pending appeal which action while could unnecessarily complicate the proceedings, also amounts to usurping the jurisdiction of civil courts. There was no scope for entertaining such an application as there is no occasion to permit any person to come on record as legal heir assuming that respondent Nos. 7 and 8 had claimed in their status as daughters, it being a matter which has to be examined by a civil court for the purpose of determining their legal status vis-à-vis the grantee and thereafter so declare their rights under the relevant statutory

provisions and not by the authorities functioning or even the revenue authorities functioning under the Karnataka Land Revenue Act, 1964. It is for this reason the portion of the order whereby the respondent No.1 – appellate authority had allowed the impleadment applications of respondent Nos. 7 and 8 and consequential action pursuant to the impleading of respondent Nos. 7 and 8 as parties to the appeal pending before him is set aside.

8. The revenue entries based on this order in favour of present respondent Nos. 7 and 8 is also set aside and the land being required to be restituted in the name of the original grantee himself, the revenue entries should show only this position and not any other position. Revenue entries bearing No.28/2003-04 dated 29-3-2004 [copy at Annexure-F] and endorsement bearing No.RRT(1) CR.1720/2003-04 dated 3-8-2004 [copy at Annexure-J] stand quashed.

9. The inter se rights as between the first petitioner, petitioner Nos. 2 to 4 and respondent Nos.7 and 8 are all matters which can be examined only by the civil court and not by either the revenue authorities or is required to be examined as an issue in the proceedings under the Act as the question of

restoration in favour of legal heirs of the original grantee does not arise in the present case.

10. However, as it is submitted by Sri. Subba Rao, learned Senior Counsel appearing for respondent Nos. 7 and 8 that these respondents have already instituted a civil suit in OS No. 491/1999 and the said suit is pending before the City Civil Judge at Bangalore, it is open to these respondents to pursue their suit for seeking such relief to which they are entitled to in law before the civil court.

11. However, the revenue entries as of now to remain in the name of the first petitioner – the original grantee and if there is a determination or re-determination of the rights of respondent Nos. 7 and 8 vis-à-vis first petitioner in the civil suit, to that extent the revenue entries shall have to be brought in conformity with the determination by the civil court.

12. Rule issued and made absolute.

13. Writ Petition allowed to the extent indicated above.

Sd/-
JUDGE

An/-